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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,424

12/22/2004

Andrea Caserta

HERRA-70160

7502

7590

07/24/2006

Fulwider Patton Lee & Utecht  
Howard Hughes Center  
10th Floor  
6060 Center Drive  
Los Angeles, CA 90045

EXAMINER

PAIK, SANG YEOP

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,424	<b>Applicant(s)</b> CASERTA ET AL.	
	<b>Examiner</b> Sang Y. Paik	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedrotti et al (US 6,931,202) in view of Vieira (US 6,563,091).

Pedrotti shows the evaporation device claimed including a base (180), a case (150) with slots, a container containing active substances, (120), a fan (260), a wick (190), an evaporation intensity regulator (300), plugs (230), a heater (250), and an electric circuit (240) connecting the fan and the heater. But, Pedrotti does not show a single button with a second additional heating resistor to change the operating mode to a boosting operation mode to increase the evaporation and diffusion of the active substances.

Vieira shows an evaporation device with a container containing active substances, a wick, a pair of heating resistors, and a single button to active and deactivate the operation modes from normal to a boosting mode to increase the evaporation and diffusion rate of the active substances. Vieira further shows such increase is achieved via a second heating resistor or in combination of all the heating resistors.

In view of Vieira, it would have been obvious to one of ordinary skill in the art to adapt Pedrotti with a second heating resistor to provide for a rapid and substantially instant increase in the evaporation and diffusion of the active substance to meet the user's need for such intensity

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with the fan continuously providing the air stream that enhances the diffusion of the active substance.

3. Claims 4, 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedrotti in view of Vieira as applied to claims 1-3, 6 and 7 above, and further in view of Pankhurst et al (US 2005/0001337).

Pedrotti in view of Vieira shows the device claimed except the means for regulating the speed of the fan.

Pankhurst shows an evaporation device for an active substance with a fan that is further controlled by a controller which controls the speed of the fan as well as the timing of the fan for boosting of the active substance. In view of Pankhurst, it would have been obvious to one of ordinary skill in the art to adapt Pedrotti, as modified by Vieira, with the means for regulating the speed of the fan to enhance increasing or decreasing the evaporation and diffusion rate of the active substance.

4. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedrotti in view of Vieira and Pankhurst as applied to claims 1-4, 6-10 and 12-14 above, and further in view of Yip et al (US 6,859,615) or Spector (US 4,629,604).

Pedrotti in view of Vieira and Pankhurst shows the device claimed except an luminous indicator to show the activation of the second heating resistor.

Yip and Spector show an evaporation device having multiple heating elements, and they further show that it is well known in the art to provide an light or luminous indicator to each of the respective heating elements to show the operation status of each heating elements.

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In view of Yip or Spector, it would have been obvious to one of ordinary skill in the art to adapt Pedrotti, as modified Vieira and Pankhurst, with the luminous indicator to each of the heating resistors to show the active or inactive status of each heating resistor to conveniently show the operating conditions of the evaporation device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y. Paik whose telephone number is 571-272-4783. The examiner can normally be reached on M-F (9:00-4:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Paik

Sang Y Paik  
Primary Examiner  
Art Unit 3742

syp